

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2169

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE
TOWN OF WESTFIELD REGARDING ROAD OPENINGS AND STREET PAVING**

WHEREAS, the Mayor and Town Council of the Town of Westfield (the “Town”) are charged with establishing and maintaining safe passage and safe conditions within the Town; and

WHEREAS, work has been undertaken throughout the Town that has left numerous streets with only partial trench repairs, or uneven and/or inconsistent repaving of varying quality; and

WHEREAS, this situation has left numerous streets in an unsightly and unsafe condition; and

WHEREAS, the Mayor and Town Council previously passed General Ordinance No. 2139 on July 9, 2019, to create a five-year moratorium on road openings within the Town; and

WHEREAS, the Mayor and Town Council have determined that the previous ordinance should be expanded to protect additional streets within the Town as well as provide further clarifying language for individuals and/or utilities who seek to excavate the streets and roadways of the Town.

NOW, THEREFORE, BE IT RESOLVED:

SECTION I. Article 11 of Chapter 24, “Streets and Sidewalks,” of the Town Code shall be and is hereby amended, in part, as follows:

Sec. 24-9. Application Procedures.

Any person, firm, or corporation desiring a permit for the opening of a street or tunneling therein shall make application to said Town Engineer setting forth the following information.

- (a) The name and address of the applicant.
- (b) The name of the street where the opening is to be made and the street number, if any, of the abutting property.
- (c) The Town Tax Map, block and lot number of the property for the benefit of which the opening is to be made.
- (d) The nature of the surface in which the opening is to be made.
- (e) The character and purpose of the work proposed.
- (f) The time when the work is to be commenced and completed.
- (g) The plan showing the exact location and dimension of all openings.

- (h) The name and address of the workmen or the contractor who is to perform the work, if different from the applicant.
- (i) A statement that the applicant agrees to replace, at his own cost and expense, in accordance with Town specifications and details, the opening to the state and condition described in Section 24-11 herein, and further agrees to comply with all other applicable ordinances, regulations and laws relative to the work.
- (j) Agreeing to indemnify and hold harmless the Town from all loss, damage, claim or expense, including expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from any work done by the applicant under the permit.
- (k) Such other information as the Town Engineer may consider pertinent.
- (l) The registration number from the underground location services “New Jersey One Call” indicating that they have been properly notified and will locate underground facilities in the area of the proposed opening or tunneling operation.
- (m) Proof of insurance coverage as required by this article.

Sec. 24-11. Requirements for Issuance of Permits.

All permits issued under this Article shall require the applicant to comply with the following:

(a) All excavations shall be kept properly barricaded at all times and, during the hours of darkness, shall be provided with the proper warning lights. The applicant shall provide such signs, controls, barricades, warning lights, and personnel necessary for safe operation and compliance with applicable federal and state laws at its own cost and expense.

(b) All excavations or tunneling shall be sheeted, shored, or braced in accordance with applicable safety codes and Occupational Safety and Health Administration (“OSHA”) standards.

(c) All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the chiefs of both the Police and Fire Departments. The Police and Fire Departments shall be notified of all street closings at least 24 hours in advance, except where the work is of an emergent nature, when notice shall be given to the Police and Fire Departments at the time work commences.

(d) All refuse and material shall be removed within 48 hours in accordance with applicable federal and state laws.

(e) All excavations shall be completely backfilled with a controlled low strength material (CLSM), more commonly referred to as soil cement, to a level six inches below the adjacent roadway surface. A temporary patch must immediately be installed until such time as the final topcoat can be applied. After installation of soil cement, the applicant shall create a final topcoat consisting of a 4-inch compacted thickness of bituminous stabilized base course, and a 2-inch compacted thickness of bituminous surface course, that, when filled, shall result in an opening that is flush with the existing contour of the road. If conditions exist that do not allow for the installation

of bituminous material as required, a temporary patch must immediately be installed until such time as the final topcoat can be applied. Permanent patches must have all edges sealed. CLSM shall have a 28-day minimum compressive strength of 120 psi, and the applicant shall submit a mix design to the Town Engineer for approval prior to use.

(f) All street patch repairs and/or trench restoration must use the infrared paving method pursuant to the most recent standards promulgated by the Town Engineer so as to blend uniformly with the adjacent existing roadway. All backfilling and patching operations of any such excavation project must be supervised by the Town Engineer or his/her designated representative to ensure compliance with the Town Engineer's standards.

(g) If blasting is required in the course of any excavation, it shall be done in strict compliance with all applicable federal and state laws and regulations.

(h) Restoration of any street foundation or surface shall not commence until the Town Engineer or his/her designated representative has determined that settlement of the subsurface is complete and the area properly prepared for restoration.

(i) Any contractor hired to perform a street excavation in the Town shall provide proof that it is licensed with the State of New Jersey.

(j) All materials and work shall be in accordance with Town regulations, specifications, and details as required by the Office of the Town Engineer.

(k) Requirements for "Moratorium" Roads

- (1) After the Town has paved or repaved any street of the Town of Westfield, no excavation permit shall be issued for openings, cuts, or excavations in said street for a period of seven years from the date of such paving, subject to the exceptions described herein.
- (2) The Town Engineer shall keep a list of all such streets subject to this seven-year moratorium, which may be inspected in the Office of the Town Engineer.
- (3) Prior to the start of any such paving or repaving work, the Town Engineer shall notify each utility company of said work so any in-progress or contemplated excavations may be completed before paving is started. Such notice shall state that no excavation permit shall be issued for openings, cuts, or excavations in said street for a period of seven years from the date of such paving. The notice shall also provide that applications for excavation permits for work to be done prior to such paving or repaving shall be submitted promptly so that any work may be completed not later than 90 days from the date of such notification.
- (4) During such seven-year period, the applicant must restore the street opening. Such restoration must include pavement restoration (milling and repaving) for the full width of the roadway to a distance of 100 feet around the area of the opening. Notwithstanding these requirements, the Town Engineer may, in his/her sole discretion, permit fewer than 100 feet where necessary. For example, if there is an excavation on a small cul-de-sac of less than 100 feet in length within the Town, or if such a distance will

unreasonably interfere with an existing utility, the Town Engineer may use his/her discretion in determining the overall distance of the restoration. Additionally, if, in the judgment of the Town Engineer, an emergency exists that makes it absolutely essential that the road be opened for purposes of a utility repair or replacement, the Town Engineer may waive curb-to-curb and/or 100-foot requirements and require that the street opening be patched and restored via infrared pavement repair technology so as to blend uniformly with the adjacent existing roadway.

(l) Requirements for Non-Moratorium Roads

- (1) For all streets that have not been paved within the last seven years, the applicant must patch and restore the street opening via infrared pavement repair technology so as to blend uniformly with the adjacent existing roadway. If the street opening to be trenched is greater than or equal to fifty (50) linear feet, upon completion of same, the applicant shall restore (milling and repaving) the entire street surface from edge-to-edge, or curb-to-curb, for the full length of the excavation as described herein.

(m) All sidewalks, when being restored or replaced as part of the operations hereunder, must also be restored pursuant to the Town Engineer's standards.

(n) The street surface shall be restored to the satisfaction of the Town Engineer that it has been restored to its original condition.

Sec. 24-12. Other Conditions Applicable to Permits.

The following conditions and regulations shall apply to all permits issued under this Article:

(b) *Transferability*. All permits shall apply only to the applicant to whom it is issued and for the purposes described in the application and shall not be transferable.

(c) *Commencement of Work*. Work under a permit shall commence within 30 days from the date of issuance of the permit, which shall be valid for thirty days therefrom. If work is not commenced within that time, the permit shall automatically terminate, unless extended in writing by the Town Engineer. The Town Engineer shall be notified at least twenty-four (24) hours prior to the work commencing, except where the work is of an emergent nature, when notice shall be given to the Town Engineer no later than at the time work commences.

(d) *Possession of Permit*. The applicant shall keep a copy of the permit and same shall be exhibited on demand to any duly authorized employee or police officer of the Town at the location where the work is occurring.

(e) *Revocation of Permit*. The Town Engineer may revoke a permit for any of the following:

- (1) Violation of any provisions of this Article or any other applicable rules, regulations, laws, or ordinances.
- (2) Violation of any condition of the permit issued.

- (3) Carrying on work under the permit in a manner which endangers life or property, or which creates any condition which is unhealthy, unsanitary, or a nuisance, in the sole discretion of the Town Engineer.

(f) *Modification of Permit Conditions.* In a special case, the Town Council may, by resolution, impose special conditions to which the issuance of the permit may be subject, or may decide that any provision of this Article shall not be applicable or may be modified.

(g) *Rules and Regulations.* The Town Engineer may make and implement any and all rules and regulations that he/she considers necessary for the administration and enforcement of this Article, but no regulation shall be inconsistent with, alter, or amend the intent of any provision of this Article, or impose any requirement that is in addition to those expressly or by implication imposed by this Article. Copies of all current regulations shall be furnished to each permittee at the time of the issuance of the permit.

Sec. 24-13. Permit Application Fees.

(a) Prior to issuance of any permit pursuant to this Article, the applicant shall file an application for said permit at least 48 hours prior to the requested time of issuance and shall pay for said permit in accordance with the following schedule:

(1) Permit Fee:

- a. Excavation up to 25 square feet: \$200.00.
- b. Excavation between 25 and 50 square feet: \$300.00.
- c. Excavation larger than 50 square feet: \$300.00 plus \$1.00 per square foot in excess of 50 square feet. For example, if an application is made for an excavation of 75 square feet, the permit fee would be \$325.00.
- d. Excavations made within seven years of previous paving (in addition to the fees described above):
 1. Within the preceding year: \$2,000.00.
 2. Within the preceding two (2) to three (3) years: \$1,500.00.
 3. Within the preceding four (4) to five (5) years: \$750.00.
 4. Within the preceding six (6) to seven (7) years: \$500.00.

(2) Cash Bond: The Town Engineer is authorized to demand a bond in an amount not less than \$1,500.00 to assure that any road opening on roadways is restored satisfactorily.

(b) All permit fees are nonrefundable, and said permit, once issued, is valid for a period of 60 days.

(c) The fee and cash bond will be waived for work done by Union County, provided Union County files an application prior to any work being done.

(d) Public utilities will be allowed to establish an escrow account with the Town of Westfield for the required cash bonds. A maximum of \$25,000.00 shall be deposited in this account, unless a single project requires the posting of a larger amount as determined by the Town Engineer.

(e) The Town shall have the authority and right to use the escrow funds or cash bond to restore or maintain the work covered by the permit if the applicant fails to do so within 24 hours of notification by the Town.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

STATE OF NEW JERSEY)
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COUNTY OF UNION)

I, Tara Rowley, Town Clerk of the Town of Westfield, County of Union, State of New Jersey, hereby certify that the within Ordinance is a true and exact copy of the General Ordinance No.____, adopted on _____ by the Town Council of the Town of Westfield.

Municipal Clerk, Town of Westfield
County of Union, New Jersey